

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA

IN RE: TRANSDATA, INC. SMART)
METERS PATENT LITIGATION,) Case Number 12-ml-2309-C

MEMORANDUM OPINION AND ORDER

Defendant OG&E has filed a Motion for Summary Judgment (Dkt. No. 519) challenging the meters identified by Plaintiff as infringing. According to OG&E, TransData identified only one specific product, namely a GE I-210 meter, model no. 1009251805. Yet in its expert reports it purports to claim additional meters as infringing. OG&E argues that Plaintiff now seeks to assert six different models of GE I-210+c meters, none of which were identified in its infringement contentions. In response, Plaintiff raises arguments that have previously been rejected by the Court in addressing CenterPoint Energy Houston Electric LLC and San Diego Gas & Electric Company's Motion to Strike. In those arguments, Plaintiff makes three claims: 1) that its infringement contentions mention and accuse the GE I-210+c meters on 20 separate occasions; 2) that OG&E has consistently acknowledged throughout this case that TransData accused the GE I-210+c of infringement; and 3) that OG&E's counsel have long held their concerns about which meters were accused and have lain behind the log in raising their objection.

After consideration of the parties' arguments and evidence, the Court finds this issue indistinguishable from that addressed in CenterPoint Energy Houston Electric LLC and San Diego Gas & Electric Company's Motion to Strike. In granting that Motion, the Court noted that the Northern District of California in ASUS Computer International v. Round Rock Research, LLC, Case No. 12-cv-02099 JST (NC), 2014 WL 1463609 (N.D. Cal. Apr. 11,

2014), set forth a number of reasons why the identification by plaintiff was insufficient to include the more specific models it sought to add. In short, the ASUS court and this Court recognize that identification or accusing a substantially similar product because it is related to an earlier identified product is insufficient. Therefore, the Court finds that Plaintiff has accused only the GE I-210 meter and Defendant OG&E is entitled to summary judgment on any other meters Plaintiff claims infringe.

Accordingly, Defendant OG&E's Motion for Summary Judgment and Rule 56(g) Findings (Dkt. No. 519) is GRANTED.

IT IS SO ORDERED this 28th day of August, 2015.



ROBIN J. CAUTHRON
United States District Judge